

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SYLVENIA COLLINS,

Plaintiff,

**ANSWER**

-against-

07 Civ 7023 (J. MARRERO)

NATIONAL RAILROAD PASSENGER  
CORPORATION a/k/a AMTRAK,

Defendant.

-----X

Defendant National Railroad Passenger Corporation, a/k/a Amtrak ("Amtrak"), by its attorneys, Landman Corsi Ballaine & Ford P.C., hereby answers the Complaint herein as follows:

**WITH RESPECT TO THE FIRST CAUSE OF ACTION**

1. Defendant Amtrak denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "FIRST" of the Complaint, except admits that defendant Amtrak was a corporation authorized to do business in the State of New York.

2. Defendant Amtrak admits the truth of each and every allegation contained in paragraph "SECOND" of the Complaint.

3. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "THIRD" of the Complaint.

4. Defendant Amtrak denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "FOURTH" of the Complaint.

5. Defendant Amtrak denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "FIFTH" of the Complaint.

6. Defendant Amtrak denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "SIXTH" of the Complaint.

7. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "SEVENTH" of the Complaint.

8. Defendant Amtrak denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "EIGHTH" of the Complaint.

9. Defendant Amtrak denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "NINTH" of the Complaint.

10. Defendant Amtrak denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "TENTH" of the Complaint.

11. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "ELEVENTH" of the Complaint.

12. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "TWELFTH" of the Complaint.

13. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "THIRTEENTH" of the Complaint.

14. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "FOURTEENTH" of the Complaint.

15. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "FIFTEENTH" of the Complaint.

16. Defendant Amtrak denies the truth of each and every allegation contained in paragraph "SIXTEENTH" of the Complaint.

**FIRST AFFIRMATIVE DEFENSE**

17. Any injuries suffered by plaintiff were caused solely by her own negligence and not by any negligence of the defendant Amtrak.

**SECOND AFFIRMATIVE DEFENSE**

18. Any injuries suffered by plaintiff were caused, in part, by her own negligence, and any recovery by plaintiff must be diminished in proportion to that part of her injuries attributable to her own negligence.

**THIRD AFFIRMATIVE DEFENSE**

19. Any injuries suffered by plaintiff were not caused by a negligent act or omission of defendant Amtrak or any individual acting under its direction or control.

**FOURTH AFFIRMATIVE DEFENSE**

20. If plaintiff has sustained any damages in this matter, which defendant Amtrak denies, then defendant Amtrak's liability, if any, shall be limited in accordance with Article 16 of the New York Civil Practice Law and Rules.

**FIFTH AFFIRMATIVE DEFENSE**

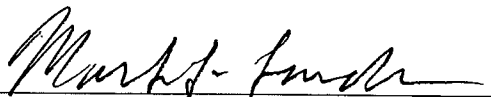
21. Plaintiff failed to mitigate or otherwise act to lessen or reduce the damages alleged in the Complaint.

**WHEREFORE**, defendant Amtrak demands judgment dismissing the Complaint herein, together with its costs and disbursements, and such other and further relief as this Court deems appropriate.

Dated: New York, New York  
August 8, 2007

Respectfully submitted,

LANDMAN CORSI BALLAINE & FORD P.C.

By: 

Mark S. Landman (ML 7654)  
Attorneys for Defendant Amtrak  
120 Broadway, 27th Floor  
New York, New York 10271-0079  
(212) 238-4800

TO: JOHN J. APPELL, ESQ.  
Attorney for Plaintiffs  
3 West 35<sup>th</sup> Street  
New York, N.Y. 10001  
(212) 947-0101

**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

**MIRIAM DEIKUN**, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at QUEENS, NEW YORK.

That on the 9<sup>th</sup> day of August, 2007, deponent served the within  
**ANSWER**

upon

John J. Appell, Esq.  
Robert T. Parrinelli, Esq.  
3 West 35<sup>th</sup> Street  
New York, New York 10001  
(212) 947-0101

attorneys in this action, at the addresses designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York.



Miriam Deikun

Sworn to before me this  
9<sup>th</sup> day of August 2007

  
\_\_\_\_\_  
Notary

**JELENA BRIGIDA**  
Notary Public, State of New York  
No. 01BR6156932  
Qualified in Kings County  
Commission Expires Dec. 4, 2010